

REMARKS/ARGUMENTS

35 USC 112, First Paragraph

Claims 61-71 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office rejected the added limitation in claim 61 to “flaps that fit around the horse’s neck above a wither’s region,” as containing subject matter which was not described in the specification because the specification only described the flaps wrapping around the legs and not the neck. (Final Office Action at 2.) The Applicant respectfully disagrees, but has amended claim 61 to remove the rejected limitation.

Claims 62-71 are all allowable (among other things) by virtue of their dependency on independent claim 61.

35 USC 112, Second Paragraph

Claims 61-71 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Office’s rejection is that the phrase in claim 61 reciting “flaps that fit around the horse’s neck above a wither’s region,” is indefinite because the flaps only wrap around the legs and not the neck. (Final Office Action at 2.) This rejection has been obviated in light of the amendments to claim 61.

Claims 62-71 are all allowable (among other things) by virtue of their dependency on independent claim 61.

35 USC 103: Uhr/Tadauchi/Osborn

The office rejected claims 61, 63, 67-70 under 35 U.S.C. § 103(a) as being unpatentable over Uhr (DE 20021260U1) in view of Tadauchi (JP 410113088A) and Osborn (US 233275). The applicant disagrees.

Claim 61 has been amended to recite the following limitation: “wherein the first pocket has a first size, and the second pocket has a second size that is different from the first size.” (Support for this limitation is found in Fig 1A, 1D, and 1E of the ‘156 publication, and the corresponding specification text). It was the applicant that appreciated the use of multiple

pockets having different sizes and dimensions that are freely positionable about the horse blanket. In this case, none of Uhr, Tadauchi, and Osborn individually or in combination teach, suggest, or motivate a person skilled in the art to use freely positionable pockets having different sizes, as currently claimed. Thus, the combination of Uhr, Tadauchi, and Osborn fail to render independent claim 61 obvious.

Claims 63, 67-70 are all allowable (among other things) by virtue of their dependency on independent claim 61.

35 USC 103: Uhr/Tadauchi/Osborn/Newman

The office rejected claims 62 and 66 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Osborn and Tadauchi as applied to claim 61, and further in view of Newman (US 5271211). These rejections should also be withdrawn because (as discussed above) the combination of Uhr, Osborn, and Tadauchi fail to render independent claim 61 obvious. In addition, Newman adds nothing further to the analysis with respect to claim 61, since Newman absolutely fails to contemplate the use of pockets, let alone freely positionable pockets having different sizes. Thus, claims 62 and 66 are allowable by virtue of their dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Osborn/Fazio

The office rejected claim 64 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Osborn and Tadauchi as applied to claim 61, and further in view of Fazio (US 6443101). Here again, this rejection should be withdrawn because (as discussed above) the combination of Uhr, Osborn, and Tadauchi fail to render independent claim 61 obvious. In addition, Fazio adds nothing further to the analysis with respect to claim 61, since Fazio also fails to contemplate the use of freely positionable pockets having different sizes. Thus, claim 64 is allowable by virtue of its dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Osborn/Beeghly

The office rejected claim 65 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Osborn and Tadauchi as applied to claim 61, and further in view of Beeghly (US 5537954). Again this rejection should be withdrawn because (as discussed above) the

combination of Uhr, Osborn, and Tadauchi fail to render independent claim 61 obvious. Moreover, Beeghly adds nothing further to the analysis with respect to claim 61, since Beeghly also fails to contemplate the use of freely positionable pockets having different sizes. Thus, claim 65 is allowable by virtue of its dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Osborn/Longtin

Finally, the office rejected claim 71 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Osborn and Tadauchi as applied to claim 61, and further in view of Longtin (US Appl. 2003/0061790A1). This rejection should also be withdrawn because (as discussed above) the combination of Uhr, Osborn, and Tadauchi fail to render independent claim 61 obvious. Still further, Longtin adds nothing further to the analysis with respect to claim 61, since Longtin absolutely fails to contemplate the use of pockets, let alone freely positionable pockets having different sizes. Thus, claim 71 is allowable by virtue of its dependency upon independent claim 61.

Use of Freely positionable pockets with different sizes: Gordon/Tadauchi

Although not cited in the present office action, the Office previously cited Gordon (CA 587047), which teaches a horse blanket having pockets that are sewn into the blanket for applying heat to particular region of a horse. Gordon recites that its fixed pockets can “vary in number, size, and location” (Gordon Spec, at 3.) The real question in this case is whether a horse blanket having fixed pockets that can vary in size, such as Gordon, and a horse harness having freely positionable pockets that are all the same size, such as those taught by Tadauchi, render the claimed invention obvious? The answer to this question is no.

In the present case, fixed pockets that vary in size, and freely positionable pockets having the same size, address the same problem, namely, heating or cooling specific target areas of a horse. As such, a person of ordinary skill in the art would contemplate heating or cooling a specific target area of horse by either (1) selecting one of the many fixed pockets for the desired target area or (2) placing some of the freely positionable pockets having the same size at the target area. In this regard, each of Gordon and Tadauchi convey to one of ordinary skill in the art that they have completely solved their respective problems, and thus one of ordinary skill in the art would not be motivated to combine the two solutions, each of which is a complete

solution to the same problem. Gordon's device apparently works just fine, without freely positionable pockets, since one could select one of the many fixed pockets for the desired target area. And Tadauchi works just fine without using pockets with varying sizes, since a user can place multiple heating or cooling pockets at the desired target area. As such, Gordon and Tadauchi both fail to suggest or motivate a person of ordinary skill in the art to combine their respective teachings to arrive at the subject matter as currently claimed

Request For Allowance

Claims 61-73 are pending in this application. The applicant requests allowance of all pending claims.

Respectfully submitted,
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